

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION**

**FISCAL YEAR 2002 ENFORCEMENT STATUS REPORT
JULY 1, 2001 through JUNE 30, 2002**

The Enforcement Division (ENFD) is responsible for the implementation, coordination and tracking of Department of Environmental Quality (DEQ) enforcement activities, and for the investigation and response to spills and citizen complaints that allege impacts to human health and the environment. The Enforcement Division consists of the Complaint Management Section and the Case Management Bureau.

I. Complaint Management Statistics

Total number of complaint and spill reports received during the report period was 1011.

In an effort to delineate areas of regulatory responsibility for complaints received by the department, a complaint type is assigned that generally relates to program authority. The Complaint Management Section is responsible for the initial investigation of all complaints to determine their validity and to ensure proper follow-up occurs (if needed). Spills being recorded are typically associated with unauthorized material releases resulting from vehicle accidents, mechanical malfunctions, or human error.

| Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) & General Group | | | | |
|--|-------|---|-------|-------------|
| Air Quality - Indoors | 10 | Spills (not impacting water) | 19.0% | 192 |
| Air Quality - Dust | 67 | Clandestine Drug Lab | | 10 |
| Air Quality - Emissions | 55 | Solid Waste | | 95 |
| Air Quality - Odors | 18 | Junk Vehicles | | 19 |
| Air Quality - Open Burning | 55 | Septic Pumpers | | 5 |
| Asbestos | 56 | Sewage | | 22 |
| Total Air Quality Related | 25.8% | Hazardous Waste | | 25 |
| Water Quality | 98 | Used Oil | | 44 |
| Spills (impacting water) | 26 | Pesticides | | 10 |
| Non-Point Source Discharges | 24 | Municipal Waste Water Treatment Systems | | 10 |
| Watershed Management (TMDL) | 1 | Superfund | | 1 |
| Release of Chemicals from Tanks * | 20 | Total Waste Related | 23.8% | 241 |
| Release of Chemicals from Pipelines | 12 | Abandoned Mines | | 3 |
| Suspect Hydrocarbon Release | 5 | Strip and Underground Mining | | 0 |
| Underground Storage Tank Regulation | 13 | Opencut Gravel Mining | | 16 |
| Subdivisions | 20 | Metal Mines | | 3 |
| Concentrated Animal Feedlot Operations | 20 | Total Mining Related | 2.2% | 22 |
| Surface Water (MPDES) Permits | 21 | Major Facility Siting Act (MFSA) | 0.4% | 4 |
| Ground Water (MGWPCS) Permits | 1 | Other (Outside DEQ Authority) | 1.5% | 15 |
| Public Water Supply Systems | 15 | | | |
| Total Water Related | 27.3% | | | |
| | 276 | TOTAL FOR ALL COMPLAINTS | | 1011 |

* Note that these are releases reported through ENFD. The Hazardous Waste Site Cleanup Bureau received 57 leak reports directly during this time.

Status of complaint and spill reports received during reporting period:

Complaint reports are sent to the ENFD for initial investigation and database entry. Referral occurs when the determination is made that the complaint falls under a specific regulatory authority either within DEQ or of an outside agency. Referral contacts are asked to keep the ENFD informed as to progress and resolution of complaint investigations. If the complainant requests a reply as to actions taken on their complaint, one is provided.

| Status of Complaint Spill Reports * | |
|--|------|
| Active (under investigation by ENFD) | 50 |
| Active Referred (to other DEQ program for investigation and follow-up) | 85 |
| Active Enforcement Case (complaint that led to a request for enforcement action) | 13 |
| Closed (resolved by ENFD) | 458 |
| Closed by Program (resolved by other DEQ program) | 147 |
| Closed No Violation (ENFD investigation determined no violation occurred) | 138 |
| Closed Referred (referred to outside Agency for resolution) | 97 |
| Closed Not Enough Information (not enough information was provided or documented to validate) | 23 |
| * Status as of 6/30/02. Please note that the status of complaints and spills can change on a daily basis as work progresses. | 1011 |

II. Case Management Statistics

The following tables provide various statistics concerning enforcement actions taken by the Department of Environmental Quality from July 1, 2001 through June 30, 2002.

| Enforcement Actions Processed by Statute | | | | | | | | | | |
|---|----------------------|-----------------------|------------------------|--------------------------------|---------------|-------------|----------------|------------------------------|-----------|-----------|
| Statute | Enforcement Requests | | | Status of Enforcement Requests | | | | | | |
| | Total Caseload | Cases continuing FY01 | Actions requested FY02 | Case Development | In Litigation | Under Order | Referred Cases | Vacated, Stayed or Suspended | Withdrawn | Closed |
| Asbestos Control Act | 9 | 4 | 5 | 1 | 1 | 3 | 3 | 0 | 0 | 1 |
| Clean Air Act of Montana | 19 | 14 | 5 | 3 | 3 | 4 | 1 | 0 | 0 | 8 |
| Metal Mine Reclamation Act | 12 | 10 | 2 | 0 | 4 | 4 | 0 | 0 | 0 | 4 |
| Montana Hazardous Waste Act | 14 | 12 | 2 | 2 | 0 | 9 | 0 | 0 | 0 | 3 |
| Montana Solid Waste Management Act | 17 | 16 | 1 | 2 | 1 | 10 | 0 | 1 | 0 | 3 |
| Montana Underground Storage Tank Act | 45 | 29 | 16 | 16 | 0 | 14 | 0 | 1 | 4 | 10 |
| Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| Motor Vehicle Recycling & Disposal Laws | 16 | 14 | 2 | 2 | 1 | 12 | 0 | 0 | 0 | 1 |
| Opencut Mining Act | 28 | 12 | 16 | 5 | 9 | 9 | 0 | 0 | 0 | 5 |
| Public Water Supply Laws | 63 | 59 | 5 | 5 | 4 | 35 | 0 | 2 | 2 | 15 |
| Sanitation in Subdivision Laws | 9 | 5 | 4 | 0 | 3 | 3 | 0 | 2 | 0 | 1 |
| Strip and Underground Mine Reclamation Act | 32 | 24 | 8 | 0 | 4 | 5 | 0 | 2 | 0 | 21 |
| Water Quality Act | 32 | 25 | 7 | 1 | 3 | 18 | 0 | 2 | 2 | 6 |
| TOTAL | 297 | 225 | 73 | 37 | 33 | 127 | 4 | 10 | 8 | 78 |

Case status explanations

Case Development: Case is being developed in the Enforcement Division and/or Legal Unit. Activities include: 1) preparation and review of files and evidence; 2) preparation of administrative and judicial enforcement documents; 3) preparation of penalty calculations.

In Litigation: Defendant and the department are engaged in pre-complaint settlement negotiations; e.g., a demand letter has been sent to the defendant, the defendant has been requested to stipulate to a draft administrative order, etc.

Under Order: Violator is subject to a legally-enforceable administrative or judicial order.

Referred Case: Case referred to another agency for case management.

Vacated: Case was vacated, either by mutual agreement or by the court, and is closed.

Stayed: Case in which the department refrains from enforcing an administrative order against a violator

Suspended: Case that is discontinued temporarily or permanently but is not closed.

Withdrawn: Enforcement Request was withdrawn before case development began.

Closed Enforcement Case: Case is closed. The defendant has satisfied the terms of the settlement agreement or order.

| Analysis of Enforcement Actions by Enforcement Action Type | | | | | |
|---|----------------|-------------------------|-------|----------|----------|
| Statute | 2002 Case Load | Enforcement Action Type | | | |
| | | Admin. | Civil | Criminal | Referred |
| Asbestos Control Act | 9 | 3 | 3 | | 3 |
| Clean Air Act of Montana | 19 | 14 | 4 | | 1 |
| Metal Mine Reclamation Laws | 12 | 11 | 1 | | |
| Montana Hazardous Waste Act | 14 | 9 | 5 | | |
| Montana Solid Waste Management Act | 17 | 10 | 7 | | |
| Montana Underground Storage Tank Act | 45 | 40 | 5 | | |
| Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act | 1 | 0 | 1 | | |
| Motor Vehicle Recycling and Disposal Laws | 16 | 8 | 7 | | 1 |
| Opencut Mining Act | 28 | 27 | 1 | | |
| Public Water Supply Laws | 63 | 51 | 12 | | |
| Sanitation in Subdivision Laws | 9 | 9 | | | |
| Strip and Underground Mine Reclamation Act | 32 | 32 | | | |
| Water Quality Act | 32 | 23 | 8 | 1 | |
| TOTAL | 297 | 237 | 54 | 1 | 5 |

| Penalties Statistics (in dollars) | | | | | | | |
|---|----------------------------------|----------------------------------|----------|---------------------------------|-----------|------------------------|------------------------|
| Statute | Orders w/ Penalties FY2002 | Monetary Settlement Penalties | | Monetary Penalties Collected | | Penalties Suspended | Suppl. Env. Project |
| | | Admin. | Civil | Admin. | Civil | | |
| Asbestos Control Act | 1 | \$5,677 | | \$5,677 | | | |
| Clean Air Act of Montana | 8 | \$108,019 | \$40,000 | \$63,019 | \$115,000 | | \$60,525 |
| Metal Mine Reclamation Laws | 4 | \$6,555 | | \$10,680 | | | |
| Montana Hazardous Waste Act | 5 | \$20,177 | \$16,400 | \$7,630 | \$450 | | \$33,724 |
| Montana Solid Waste Management Act | 1 | \$13,500 | | \$13,500 | \$5,000 | | |
| Montana Underground Storage Tank Act | 10 | \$4,675 | | \$2,875 | \$3,372 | | |
| Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act | 0 | | | | \$12,000 | | |
| Opencut Mining Act | 11 | \$12,037 | | \$11,337 | | | |
| Public Water Supply Laws | 6 | \$17,140 | | \$9,505 | | | |
| Sanitation in Subdivision Laws | 2 | \$53,625 | | \$12,375 | \$4,000 | | |
| Strip and Underground Mine Reclamation Act | 6 | \$2,060 | | \$302,060 | | | |
| Water Quality Act | 3 | \$48,600 | | \$48,600 | | | \$823,965 |
| Subtotal* | | \$292,065 | \$56,400 | \$487,258 | \$139,822 | | |
| TOTAL | 57 | \$348,465 | | \$627,080 | | \$0 | \$918,215 |

* The amount of Penalties Collected does not equal the Settlement Penalties because; (1) penalties were not due before the end of FY2002, (2) penalties are being paid under a payment schedule, (3) portions of penalties have been suspended, (4) the violator has failed to pay the penalty, (5) the violator has appealed the penalty order, or (6) the violator is or may be insolvent. In instances where the violator has not paid a penalty that is owed, the department is actively pursuing collection.